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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**NEWPORT PACIFIC CORPORATION and  
MO'S ENTERPRISES, INC.,**

No. 05-00995-KI

Plaintiffs,

**ANSWER AND AFFIRMATIVE  
DEFENSES**

v.

**MOE'S SOUTHWEST GRILL, LLC, and  
WRAPS OF THE NORTHWEST, L.L.C.,**

By Defendant Wraps of the Northwest,  
L.L.C.

Defendant.

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Defendant Wraps of the Northwest, L.L.C. ("Wraps"), for its answer and affirmative defenses to the complaint of plaintiffs Newport Pacific Corporation and Mo's Enterprises, Inc. (collectively "plaintiffs" or "Newport"), alleges as follows:

1. In answer to the allegations contained in paragraph 1, Wraps admits that plaintiffs have commenced this civil action alleging various federal and state law claims, but denies any liability for such claims.
2. In answer to the allegations contained in paragraph 2, Wraps admits that the Court has subject matter jurisdiction of this civil action.

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3. In answer to the allegations contained in paragraph 3, Wraps admits that the Court has personal jurisdiction over it and that venue is proper.

4. In answer to the allegations contained in paragraphs 4 and 5, Wraps lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and therefore denies the same.

5. Paragraph 6 requires neither an admission nor a denial from Wraps.

6. In answer to the allegations contained in paragraph 7, Wraps lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and therefore denies the same.

7. In answer to the allegations contained in paragraph 8, Wraps admits that is an Oregon limited liability company but denies the remaining allegations contained therein.

8. Paragraph 9 requires neither an admission nor denial from Wraps.

9. In answer to the allegations contained in paragraphs 10 through 25, Wraps lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and therefore denies the same.

10. In answer to the allegations contained in paragraph 26, Wraps admits that a Moe's Southwest Grill restaurant opened in Wilsonville, Oregon, in approximately April 2005. Wraps lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth therein and therefore denies the same.

11. In answer to the allegations contained in paragraphs 27, 28, and 29, Wraps lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and therefore denies the same.

12. In answer to the allegations contained in paragraphs 30 and 31, Wraps denies the same.

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13. In answer to the allegations contained in paragraphs 32, 33, and 34, Wraps lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and therefore denies the same.

14. In answer to the allegations contained in paragraphs 35 and 36, Wraps denies the same.

15. Paragraph 37 requires neither an admission nor denial from Wraps.

16. In answer to the allegations contained in paragraphs 38 through 41, Wraps denies the same.

17. Paragraph 42 requires neither an admission nor denial from Wraps.

18. In answer to the allegations contained in paragraphs 43 through 46, Wraps denies the same.

19. Paragraph 47 requires neither an admission nor denial from Wraps.

20. In answer to the allegations contained in paragraphs 48 through 54, Wraps denies the same.

21. Paragraph 55 requires neither an admission nor denial from Wraps.

22. In answer to the allegations contained in paragraphs 56 and 57, Wraps denies the same.

23. Paragraph 58 requires neither an admission nor denial from Wraps.

24. In answer to the allegations contained in paragraphs 59 through 62, Wraps denies the same.

25. Paragraph 63 requires neither an admission nor denial from Wraps.

26. In answer to the allegations contained in paragraphs 64, 65, and 66, Wraps denies the same.

27. Paragraph 67 requires neither an admission nor denial from Wraps.

28. In answer to the allegations contained in paragraphs 68, 69, and 70, Wraps denies the same.

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29. Paragraphs 71 through 80 require neither an admission nor denial from Wraps.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

30. Newport's complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

31. Newport's claims alleged in the complaint are barred by laches and/or estoppel.

**THIRD AFFIRMATIVE DEFENSE**

32. Newport's claims alleged in the complaint are barred by waiver.

**FOURTH AFFIRMATIVE DEFENSE**

33. Some or all of Wraps' alleged infringing activities constitute protected fair use.

**PRAYER**

Wherefore, Wraps prays that the complaint be dismissed with prejudice, that Wraps be awarded its costs and disbursements herein, that Wraps recover from Newport its attorneys' fees herein, and that Wraps be awarded such other relief as the Court may find just and appropriate in the circumstances.

DATED: August 15, 2005

LANE POWELL PC

By s/ Kenneth R. Davis, II

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